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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/631,058

07/31/2003

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AUS920030437US1

3505

7590 05/25/2007  
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EXAMINER

WHIPPLE, BRIAN P

ART UNIT

PAPER NUMBER

2152

MAIL DATE

DELIVERY MODE

05/25/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/631,058	<b>Applicant(s)</b> DAY ET AL.	
	<b>Examiner</b> Brian P. Whipple	<b>Art Unit</b> 2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                                  |                                                                                         |
|----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                      | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                             | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/13/07</u> . | 6) <input type="checkbox"/> Other: _____                                                |

### **DETAILED ACTION**

1. Claims 1-21 are pending in this application and presented for examination.
2. The amendment received on 5/1/07 has been entered and made of record.

### ***Response to Arguments***

3. Applicant's argument with respect to the 35 U.S.C. 101 rejections of claims 15-21 has been fully considered and is persuasive. The 35 U.S.C. 101 rejections of claims 15-21 have been withdrawn.
4. Applicant's arguments with respect to the claims 1, 8, and 15 have been considered but are moot in view of the new ground(s) of rejection. The applicant's arguments appear to be based solely on the amended material and thus do not require a response other than in the form of the new ground(s) of rejection set forth below.
5. Applicant's arguments with respect to claims 6, 13, and 20, have been fully considered but they are not persuasive. The applicant argues that the end of the message is not contained within the plurality of characters due to the fact that the sender has already sent the message. However, the examiner must give the broadest reasonable interpretation of the claims.

For example, claims 1 and 6 (claim 1 being the parent claim and claim 6 being the child claim being discussed) simply state that a plurality of characters is received

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from a sender and that the end of the message is not contained within the plurality of characters. The claims do not state what constitutes the plurality of characters, and therefore the plurality of characters does not have to be assumed to be the entire message received from the sender. In other words, a message may be received from the sender and the plurality of characters may then be interpreted as any portion of this message. The claims do not state that the plurality of characters must be interpreted as the entire portion received from the sender in one transmission.

Given this interpretation by the examiner, it may be seen that a message is received and within that message, a series of plurality of characters are defined to ensure that the message segments do not pass a set limit (160 characters in this instance; see QuikTxT, Pg. 2, Message Length, ln. 1-4). So for each instance of this determination, a message is examined and if the end of the message does not occur within a plurality of characters (again, 160 characters in this instance), the message is split and then a further determination is made to see if more than one split needs to occur. So clearly a plurality of characters is repeatedly being examined to see if the end of a message occurs within the plurality of characters. Thus, the applicant's arguments are not persuasive.

6. Applicant's arguments with respect to claims 3, 10, and 17, have been fully considered but they are not persuasive. The applicant's argument that Malik is directed to a domain name and not a portion of a message is not persuasive, as both are a "plurality of characters" as claimed in claim 3.

Furthermore, the argument that Malik is directed to a different indication than the claimed invention is also not convincing as claim 3 merely states that there is an indication. The purpose of the indication is irrelevant and motivation would exist for combining Malik with QuikTxT given the language of the claim.

Additionally, appending a character to form an indication is extremely well known in the art. It would be obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of QuikTxT by combining Malik's teaching of appending a character to form an indication.

7. Applicant's arguments with respect to the remaining claims being allowable due to the argued allowability of the above claims are not persuasive, as the examiner has maintained the rejections of the above claims.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-2, 4-6, 8-9, 11-13, 15-16, and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over QuikTxT, FAQs/How-To, 10/06/2002, Cellcom (QuikTxT), in view of Enete et al. (Enete), U.S. Publication No. 2003/0208543 A1.

10. As to claim 1, QuikTxT discloses a method in a data processing system for managing a messaging session (Pg. 1, What is Quik|TxT?, In. 2-3), said method comprising the steps of:

a data processing system receiving a plurality of characters from a message sender within the messaging session, wherein the plurality of characters forms a portion of a message within the messaging session (Pg. 2, Message Length, In. 1-4; a message is split into multiple messages and sent as a plurality of parts);

the data processing system determining that the number of characters of the received plurality of characters is at least equal to a preset number of characters (Pg. 2, Message Length, In. 1-4; the preset number of characters is 160); and

transmitting the plurality of characters to a message recipient within the messaging session (Pg. 1, Who can I send Quik|TxT messages to?, In. 1-2).

QuikTxT is silent on in response to said determining, the data processing system automatically transmitting without receipt of a send command from the message sender signifying completion of composition of the message.

However, Enete discloses in response to said determining, the data processing system automatically transmitting without receipt of a send command from the message sender signifying completion of composition of the message ([0077], especially In. 13-17).

Enete is directed to determining that a video message has reached a size limit and then sending the portion that reaches the limit, while allowing the user to continue

to record without user intervention. This is analogous to the claimed splitting of a text message for the same reason (i.e. message length limits). There is an especially strong motivation to combine given that Enete is classified in 709/206, demand based computer conferencing, and the claimed invention is also directed to demand based computer conferencing (instant messaging). Further, Enete is utilized in IM client applications (see [0077], ln. 11).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of QuikTxT by automatically transmitting a portion of a message without receipt of a send command from the message sender signifying completion of composition of the message as taught by Enete in order to allow a user to conform to message size limits while continuing to compose a long message uninterrupted (Enete: [0077], especially ln. 13-17).

11. As to claim 2, QuikTxT and Enete disclose the invention substantially as in parent claim 1, including transmitting an indication that the transmitted plurality of characters forms only a portion of the message (QuikTxT: Pg. 2, **Message Length**, ln. 1-4; indication is given by labeling the plurality of parts as "part 1 of 3, part 2 of 3, ect. [sic]").

12. As to claim 4, QuikTxT and Enete disclose the invention substantially as in parent claim 1, including concatenating another plurality of characters that forms a portion of the message to the transmitted plurality of characters, thereby creating

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concatenated characters (QuikTxT: Pg. 2, Message Length, ln. 1-4; messages over a predefined length are split into a plurality of parts and can be received as “part 1 of 3, part 2 of 3, ect. [sic]”, which equates to concatenating another plurality of characters to the transmitted plurality of characters); and

transmitting the concatenated characters to the message recipient within the messaging session (QuikTxT: Pg. 2, Message Length, ln. 1-4).

13. As to claim 5, QuikTxT and Enete disclose the invention substantially as in parent claim 4, including determining that the number of characters of the another plurality of characters is at least equal to a preset number of characters (QuikTxT: Pg. 2, Message Length, ln. 1-4; any message over 160 characters will split into multiple messages, therefore a message over 320 characters will split into more than two parts, as the second part would be over 160 characters, which equates to determining that the number of characters of the another plurality of characters is at least equal to a preset number of characters); and

wherein the step of concatenating is performed once it is determined that the number of characters of the another plurality of characters is at least equal to the preset number of characters (QuikTxT: Pg. 2, Message Length, ln. 1-4; messages over a predefined length are split into more than two parts and can be received as “part 1 of 3, part 2 of 3, ect. [sic]”, which equates to concatenating another plurality of characters possessing a number of characters at least equal to a preset number of characters).



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14. As to claim 6, QuikTxT and Enete disclose the invention substantially as in parent claim 1, including determining that the end of the message is not contained within the plurality of characters (QuikTxT: Pg. 2, Message Length, ln. 1-4; messages over a predefined length are split into a plurality of parts, based on the end of the message not being contained in a plurality of characters being equal to or less than 160 characters).

15. As to claims 8 and 15, the claims are rejected for the same reasons as claim 1 above.

16. As to claims 9 and 16, the claims are rejected for the same reasons as claim 2 above.

17. As to claims 11 and 18, the claims are rejected for the same reasons as claim 4 above.

18. As to claims 12 and 19, the claims are rejected for the same reasons as claim 5 above.

19. As to claims 13 and 20, the claims are rejected for the same reasons as claim 6 above.

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20. Claims 3, 10, and 17, are rejected under 35 U.S.C. 103(a) as being unpatentable over QuikTxT and Enete as applied to claims 2, 9, and 16 above, and further in view of Malik et al. (Malik), U.S. Publication No. 2005/0044144 A1.

21. As to claim 3, QuikTxT and Enete disclose the invention substantially as in parent claim 1, but are silent on the indication is a predefined character appended to the plurality of characters.

However, Malik discloses the indication is a predefined character appended to the plurality of characters ([0053], ln. 1-20).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of QuikTxT and Enete by utilizing a predefined character appended to a plurality of characters as an indication as taught by Malik in order to easily and briefly identify additional information relevant in a messaging environment.

22. As to claims 10 and 17, the claims are rejected for the same reasons as claim 3 above.

23. Claims 7, 14, and 21, are rejected under 35 U.S.C. 103(a) as being unpatentable over QuikTxT and Enete as applied to claims 1, 8, and 15 above, and further in view of Horvitz et al. (Horvitz), U.S. Publication No. 2003/0046421 A1.

24. As to claim 7, QuikTxT and Enete disclose the invention substantially as in parent claim 1, but are silent on the message sender defines the preset number of characters.

However, Horvitz discloses the message sender ([0089], ln. 1-8) defines the preset number of characters ([0086], ln. 16-23; "number of characters sent").

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of QuikTxT and Enete by allowing the message sender to define the preset number of characters as taught by Horvitz in order to facilitate personalization according to user desires (Horvitz, Abstract, ln. 10-12).

25. As to claims 14 and 21, the claims are rejected for the same reasons as claim 7 above.

26. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See the Notice of References Cited (PTO-892) for this Office Action and the original Office Action.

28. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian P. Whipple whose telephone number is (571) 270-1244. The examiner can normally be reached on Mon-Fri (8:30 AM to 5:00 PM EST).

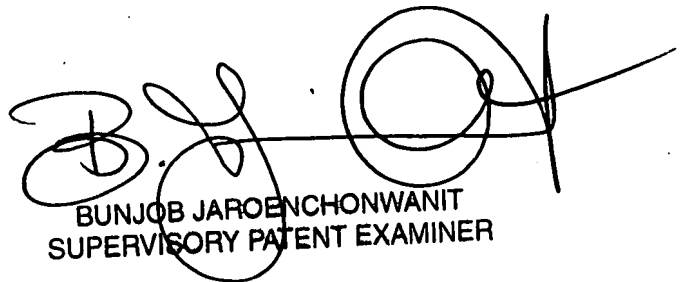
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on (571) 272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BPW

Brian P. Whipple  
5/19/07

  
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SUPERVISORY PATENT EXAMINER